**HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE**

**And**
**HON'BLE SHRI JUSTICE G.BHAVANI PRASAD**

**W.A. NO.462 OF 2006**

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Between:

U.C.Gupta

**..... Appellant**

AND

Deputy Registrar – Divisional Cooperative Officer,

Hyderabad (West) Division, Ranga Reddy District.

and 4 others.

**.....Respondents**

**::JUDGMENT::**

**Counsel for the Appellant : Sri Ravi Shanker Jandhyala**

**Dated 27/4/2006**

**Per Sri G.S.Singhvi, CJ**

Dissatisfied with the partial relief granted by the learned Single Judge who passed conditional stay order in WPMP No.10596 of 2006 (W.P.No.8294 of 2006), the appellant has preferred this appeal.

The appellant is Ex-President of NFC Employees Consumer's Cooperative Society Limited, Hyderabad. Pursuant to an enquiry held under Section 51 of the Andhra Pradesh Cooperative Societies Act, 1964, the competent authority held Sarvasri P.S.V. Pillai, Ex-Secretary, B.M. Pillai, Business Manager, M. Sampath Kumar, Sales Manager, K.S. Ranganath, Accountant, Anil Reddy, V. Srisailam and Balwantha Reddy responsible for misappropriation of Rs.1,38,251-37 ps. and directed that the amount be recovered from them jointly and severally besides taking criminal action. That order was challenged by Sri P.S.V. Pillai in C.T.A. No.58 of 1996, which was dismissed by the Andhra Pradesh Cooperative Tribunal (for short 'the Tribunal'). The order of the Tribunal was the subject matter of two revision petitions i.e., C.R.P.Nos.2853 of 1997 and 2410 of 1997, which were disposed of by

a learned Single Judge on 11-12-2001 with a direction to the appellate authority to ascertain the quantum of loss occasioned to the society.

In compliance of the aforementioned order, Deputy Registrar/Divisional Cooperative Officer, after holding fresh enquiry passed order dated 26-6-2002 whereby he directed recovery of Rs.1,08,670/- from the petitioner and Sarvasri P.S.V.Pillai and B.M. Pillai together with interest @ 18% with effect from 6-10-1983.

The appellant challenged order dated 26-6-2002 by filing an appeal before the Tribunal, which was dismissed on 7-12-2005. He then filed W.P.No.8294 of 2006 with the prayer that orders dated
26-6-2002 and 7-12-2005 passed by Deputy Registrar and the Tribunal respectively be quashed. He also filed WPMP No.10596 of 2006 for staying the operation of the orders impugned in the writ petition.

While admitting the writ petition, the learned Single Judge passed an order of interim stay subject to the condition that the writ petitioner (appellant herein) shall deposit 50% of the surcharge amount within four weeks.

Sri Ravi Shankar Jandhyala, learned counsel laid considerable emphasis on his client's plea that while making fresh enquiry in pursuance of order dated 11.12.2001 passed by the learned Single Judge in CRP Nos.2410 and 2853 of 1997, Deputy Registrar-Divisional Cooperative Officer, Hyderabad (West), Ranga Reddy District could not have fastened his client with the monetary liability in lieu of the alleged loss caused to NFC Employees Consumer Cooperative Society Limited of which he was President for some time. He further argued that the Tribunal committed a grave illegality by confirming the order of the Deputy Registrar.

We have thoughtfully considered the submissions of the learned counsel, but have not felt impressed. In our opinion, while passing order of conditional stay, the learned Single Judge will be deemed to have considered prima facie merits of the appellant's challenge to the orders passed by the Deputy Registrar/Divisional Cooperative Officer and the Tribunal, the balance of convenience and the element of irreparable injury and then passed conditional stay order requiring the appellant to deposit 50 % of the surcharge amount. Therefore, we do not find any valid ground or justification to interfere with the discretion exercised by the learned Single Judge.

With the above observations, the appeal is dismissed.

However, we accept the oral request made by the learned counsel for extension of the time specified in the order under challenge and direct that the interim relief given by the learned Single Judge will continue to operate for a further period of four weeks within which the appellant shall have to deposit 50% of the amount of surcharge, else he will forfeit the benefit of the interim order and the concerned authorities shall then be entitled to take all coercive measures to recover the amount due.

**G.S.SINGHVI, CJ**

**G.BHAVANI PRASAD,J**

27-4-2006

Msv/svs